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REVIEW OF THE GOVERNING STRUCTURES
OF THE UNITED NATIONS ENVIRONMENT PROGRAMME

Report of the Executive Director

Introduction

1. UNEP has been assigned a pre-eminent role in identifying and assessing environmental issues of common concern, inducing their resolution through international cooperation and providing policy guidance for the direction and coordination of environmental programmes within the United Nations system.
2. The United Nations Conference on Environment and Development (UNCED) of 1992, the emergence of the new paradigm of sustainable development, the multiplicity of new actors and significant changes in the geopolitical structure are some of the critical elements which have substantially transformed the scope of the international environmental agenda.
3. If the world community is to respond effectively to critical threats to our environment, to manage complex interdependencies and to rise to the challenges of sustainable development, UNEP must fulfil its potential as the authoritative voice and catalyst for action on behalf of the environment.
4. The Governing Council at its eighteenth session recognized that UNEP must quickly adapt to these new circumstances. It approved a new integrated programme of work directly responding to Agenda 21 and building upon the organization's mandate and particular strengths. It encouraged the Executive Director to continue on the path of management reform, bringing the organization's structure into line with the approved programme of work, and putting in place processes that would ensure efficiency, effectiveness,

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transparency and excellence. A third element of the strengthening of UNEP is the assurance of a sufficient and stable resource base. On each of these three elements - programme, management and financing - the Governing Council at its nineteenth session will receive a progress report.

5. Additionally, the Governing Council at its eighteenth session determined that Agenda 21's expression of the need for an enhanced and strengthened role for UNEP and its Governing Council required an improvement in the governance of the organization itself. It requested the Executive Director, after consultations with Governments, to propose to the Council at its nineteenth session options to modify and streamline the governing structures (decision 18/2 is attached as annex 1). The present paper responds specifically to that request, which is a testimony of the need for change.

I. SCOPE AND PROCESS OF THE REVIEW

6. In response to the mandate contained in Governing Council decision 18/2, the Secretariat consulted widely. More than 90 countries responded, including more than 80 per cent of Governing Council members. The Secretariat also undertook an historical review of the development of UNEP's governance regime and a factual analysis of the governing structures of a number of relevant organizations. Annex 2 documents this process.

7. The focus of the review was institutional. The Governing Council decided to undertake the review "with a view to itself taking action or, where necessary, recommending to the General Assembly to take action". The present note, therefore, limits itself to a review of the bodies which constitute the UNEP system of governance, in accordance with their respective mandates, and which are within the decision-making power of the Governing Council or the General Assembly. These bodies are: the Governing Council itself, its Bureau, and subsidiary bodies of the Governing Council, including the Committee of Permanent Representatives. The review takes into account the existence of informal consultations of the Executive Director with selected Ministers and regional consultations at the Ministerial level, as both have a direct bearing on the governance of UNEP. Annex 3 summarizes the mandate, membership and modus operandi of these bodies.

8. To sustain and strengthen the quality, impact and output of an organization the following characteristics for an effective governance regime are identified:

(a) influence - policy choices that lead to action not paralysis; policy choices that influence those who take decisions; policy decisions that elicit compliance, that parties will not ignore; political momentum and strength, including high-level, ministerial involvement, to ensure that the organization's voice is heard in crucial debates;

(b) sense of "ownership" and legitimacy - critical constituencies which, through a system of democratic representation, have an informed voice, an input into decision-making and a commitment to the outcome;

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(c) agility and responsiveness - ability to adapt rapidly to changing circumstances; ability to be anticipatory and proactive;

(d) shared values but distinct accountabilities - all elements of the system work toward common goals; distinction between roles understood;

(e) efficiency and transparency - effective oversight of implementation of the programme mandated by Governments, without detracting from the delegated authority of the executive head;

(f) assurance of financial resources - the organization is able to implement the policies and programmes approved in a predictable manner.

II. OBSERVATIONS

9. That Governments desire an authoritative voice and catalyst for action on behalf of the environment is not in question. That thorough review of UNEP's governance regime is necessary is not in doubt. Opinions vary as to the nature of the structural and procedural modification required. On any detailed assessment of the present inadequacies consensus would be difficult to achieve. Nevertheless, measured against the characteristics of an effective governance regime, the following questions can be asked.

10. Is the organization perceived as having political vitality, profile and voice in crucial debates where decisions are taken? Although individual Ministers may make themselves heard, the strong collective voice of the governing body of the organization is all too often absent or fragmented. Is the Governing Council's influence felt, for example, in the forest policy debate, in the climate change negotiations, in setting the environmental agenda of the World Trade Organization (WTO), or in mobilizing resources at the Council? Does UNEP's Governing Council remain the central environmental policy forum with Ministers of Environment asserting primary responsibility? Does this forum support and influence Ministers in carrying out their national responsibilities? Is the degree of political influence on the strategic direction of the organization sustained and sufficient enough for it to achieve not only relevance, but credibility as an environmental agenda-setter? Does UNEP's Governing Council provide holistic strategic guidance to counter the fragmentation of the environmental debate resulting from the growing number of specialized environmental conventions and their autonomous governing bodies and secretariats? On any important global environmental issue, is UNEP's perspective conveyed in a timely and compelling manner?

11. The objectives of the organization and the decisions taken by UNEP's governing body are more likely to be acceptable and ultimately advanced if the governance regime is perceived to be democratically representative. Universal participation underpins the decision-making process of the United Nations and is not achieved fully in UNEP's current governing structures. The Governing Council is limited to 58 member States, although States not members may and do participate in sessions as observers. The membership of the Committee of Permanent Representatives currently does not correspond to Governing Council membership, with 25 per cent or 15 of 58 member States not being represented in Nairobi. Certain geographical regions such as the

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Central Asian republics, West Africa, small island developing States and least-developed countries, are particularly disadvantaged.

12. As in the economic sphere, regional mechanisms are being established, providing the fora for the exchange of views and policy dialogue. UNEP's governance acknowledges and benefits from this trend only in informal and sporadic ways. There exists no comprehensive and formal relationship between these consultations and UNEP's work programme.

13. The potential contributions of non-governmental organizations, the private sector and civil society have not been sought systematically to strengthen the role of Governments in providing leadership and setting legislative frameworks for environmental actions.

14. If an organization is to be proactive rather than reactive in this complex, dynamic environment, it must be agile. The governing structure of UNEP, with its biennial meetings of the Governing Council, is constrained in providing timely and substantive policy guidance to the secretariat and in presenting a powerful collective voice in high-level forums which meet more frequently and at the Ministerial level, for example, the Commission on Sustainable Development. Informal consultations with a restricted number of Ministers of Environment, although useful in gaining insight on specific issues and developments of common concern, may lack transparency. They cannot be used as the only source of overall policy guidance and advice on the strategic direction of the organization and programme implementation.

15. Each element of the system needs to clearly understand its role in achieving the objectives of the organization and in relating to other elements. The technical functions of subsidiary bodies and expert groups should offer sound recommendations and advice as input into, and not as a substitute for, consideration and decision by the senior body. Equally, the Governing Council should avoid subsuming the detailed technical functions of subsidiary bodies. Lack of clarity about roles, poor communication and conflicting advice among these bodies currently result in inefficiencies and weaker decisions. At the eighteenth session of the Governing Council, decisions prepared by the subsidiary body did not command agreement from environmental experts and representatives attending the meeting, causing time-consuming renegotiations and insufficient attention to key strategic issues. The environmental agenda was not being set by experts with environmental knowledge.

16. The Committee of Permanent Representatives has served as an important channel of communication between Governments and UNEP. The relationship between UNEP and the Committee of Permanent Representatives, however, requires continuing attention to such factors as: a perception of too little and untimely information and briefings from the side of the secretariat; the tendency of several representatives to micro-manage UNEP; the lack of a fully representative corps diplomatique with sufficient environmental expertise in Nairobi; and the fact that the communication between the embassies in Nairobi and Ministers of Environment in capitals is in some instances weak to non-existent. The Committee of Permanent Representatives in its present setting therefore is not ideal as a sole partner of UNEP as far as two-way information, guidance and advice are concerned.

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17. Efficiency and transparency need to be pursued if the collective human and financial effort is to be converted into results. An approved work programme inconsistent with an approved budget is dysfunctional. Lack of focus and discipline may result in too many decisions often of an administrative character with limited strategic guidance. Too many meetings, consuming too much time, demanding too much documentation are costly in terms of financial resources and lack of focus. Poor scheduling can result in a misuse of the valuable presence of Ministers by substituting Ministerial statements for participation in policy dialogue and debate.

18. The more influential and successful an organization, the larger its constituency and its ability to attract financial resources and the greater its assurance of adequate and predictable financing. In turn, to achieve such influence and success, financial security and enhanced political support are required. This is the vicious cycle in which UNEP currently finds itself.

19. The strengths and weaknesses of the present system of governance are in essence all related to the need for the UNEP secretariat and member States to provide each other with and receive adequate and timely information, guidance and advice on the implementation of the work programme as well as on emerging environmental issues, concerns and events. The institutional structures which have been established and developed to play a part in that process, in particular the intersessional ones, are, for various reasons, not optimal in complementing each other and providing full information, guidance and advice. This is partly due to the fact that views, and consequently practices, as to what constitutes a sufficiently effective and efficient system of governance differ.

III. THE OPTIONS

20. There is no single desirable model or blueprint for reform that would meet all expectations, but there are actions which, taken together, would modify the governance regime and result in a strengthened organization. All are necessary, none alone is sufficient. Some actions could be implemented immediately, while others could be pursued over time. Lessons can be drawn from the experiences of other United Nations organizations, but they have limited value without an understanding of the purpose and culture of each organization. Two elements of reform are: the reform of working methods and the reform of structures.

A. Reform of working methods

21. Efficiency, effectiveness and transparency can be enhanced quickly through simple means.

22. A recent analysis conducted by United Nations Headquarters reveals that the notional cost of a single page of documentation in the six official languages is US\$ 916; the notional cost of one 3-hour meeting is US\$ 4,500, and thousands of dollars are misused annually while interpreters wait for meetings to commence. Rough estimates for servicing meetings of the Committee of Permanent Representatives in Nairobi range from US\$ 3,000 per subcommittee or technical briefing meeting to US\$ 4,300 for quarterly

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meetings of the entire Committee. This does not include staff costs to prepare specially requested reports. Twenty-four meetings have been held in 1996 to date.

23. The following suggestions are made:

(a) Bodies could review their needs with a view to rationalizing requests for conference services and ensure full use of interpretation time by having meetings convened punctually;

(b) Bodies could review recurrent documentation and eliminate what they deem unnecessary; some reports could be considered on a less frequent basis; agenda items could be merged and reports consolidated; bodies could make oral rather than written reports and exercise restraint in making proposals containing requests for any new reports;

(c) Bodies could reinforce the practice of secretariat reports normally consisting of no more than four pages.

24. Efforts to enhance transparency have begun by developing standard formats for reporting purposes; ensuring that budget and programme documents are clearly linked and that reports on implementation of Governing Council decisions and on programme implementation are cumulative and that all anticipated sources of funding are reflected in one composite financial report; and ensuring that the most appropriate senior official is present at meetings in accordance with the agenda of the meeting.

25. Effectiveness can be measured by the quality of the decisions made. A review of the decisions adopted by the Governing Council at its seventeenth and eighteenth sessions reveals that the number of decisions has increased. However, such an increase has not been matched by substantive guidance of a strategic nature. Other than the fundamental decisions adopting the integrated programme of work and budget for the biennium, only 8 of 49 decisions of the Governing Council at its eighteenth session could be characterized as giving substantive guidance (for example, in the areas of globalization, state of the environment reports, law, chemicals, biosafety and protecting the marine environment). A number of decisions that appear to be substantive are of a procedural character, such as calling for meetings, without giving clear guidance in terms of the objectives to be achieved. Others note the receipt of reports that have been requested and submitted automatically over the years. Still others isolate elements of the proposed programme of work causing undue emphasis to be given to that particular element rather than to the balanced programme as a whole, thus giving conflicting guidance to the secretariat. Policy decisions of the Governing Council concerning the direction of the organization internally and in its relationship with other parts of the United Nations system range from 5 of 44 at the seventeenth session to 8 of 49 at the eighteenth session. Furthermore, decisions have been taken without taking into account their financial implications.

26. Action has been taken to address many of these shortcomings in the preparation of documentation for the nineteenth session of the Council. The organization of work at Governing Council sessions is a continuing process of change. Greater discipline in preparing fewer, but more significant

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decisions will be required. Greater coherence in decisions taken could be achieved through the proposal to have the in-session programme and budget committees meet as a single Committee of the Whole. Cooperation and coordination are of particular importance for the Governing Council at its nineteenth session, where, in addition to the programme budget for the 1998-1999 biennium, a mid-term review of 1996-1997 will take place. The Governing Council will also have to be alert to the implications of taking decisions without assessing financial implications.

27. For the past two Governing Council sessions, a high-level segment of relatively short duration has attracted a record number of 56 Ministers to the seventeenth session and 47 Ministers to the eighteenth session. A sharply focused, policy-relevant agenda, perhaps orchestrated by lead speakers, would ensure that Environment Ministers can make a substantial impact and develop a strategic environmental vision for the organization. In addition, they should consider the adoption of harmonized priorities and budget for the biennium, after prior consideration by the Committee of the Whole. All other agenda items should be brought to conclusion by the Committee of the Whole for adoption by the plenary. Overall, the agenda should reflect a mission commonly subscribed to, set strategic direction and, ultimately, lead to a reduction in special meetings being called for separate issues and to greater synergy among activities in other spheres.

28. Permanent representatives are the regular counterparts and channels of communication between UNEP and Governments. Positive and constructive dialogue should continue to be a priority in order to improve coordination and effectiveness. There is also room for improvement in the communication between the permanent representative and the Minister of Environment in the capital. The secretariat's direct contacts with Ministers of Environment, who constitute its basic constituency, should be conveyed to Permanent Representatives. Timely advance dissemination of appropriate and well-prepared agendas and documentation for meetings must be ensured. These problems and shortcomings are recognized by Governments, their Permanent Representatives and the UNEP secretariat. Consultations to find solutions and improvements continue.

29. The involvement of non-governmental entities is valuable in evaluating new policies and proposals, bringing new perspectives, broadening the consensus and reducing insularity. They should be encouraged to take an active part in the debate. Daily briefing meetings during Governing Council sessions could be organized, as well as satellite meetings as a structured open forum for discussion followed by formal Governing Council consideration. Thus, UNEP could be innovative in encouraging a multi-sectoral approach, allowing for meaningful involvement of civil society.

30. The attendance and meaningful participation of representatives of environment-related conventions, their Conference of Parties and Secretariats, as well as other United Nations bodies should be sought.

B. Reform of structure

31. UNEP's current governance regime has its roots in Stockholm, 25 years ago. With more complex issues and an increased number of new institutional mechanisms on the scene, it is understandable that the original structure

would come under scrutiny. Both the bodies formally established by the Governing Council (the Bureau and the Committee of Permanent Representatives) and the informal ones (ad hoc consultations with selected Ministers and regional Ministerial meetings) have played a significant part in the evolution of UNEP. The creation of new bodies is viewed with apprehension by some Governments as being potentially costly, and may not guarantee the effectiveness desired unless streamlining of the entire regime occurs. Transforming the mandates, membership and modus operandi of existing bodies may achieve greater acceptance and results.

C. Governing Council

32. The Governing Council is the pre-eminent intergovernmental mechanism for formulation and appraisal of broad environmental policy matters. It provides the strategic vision of the Environment Programme. It is the main forum where Governments pursue the environmental dialogue to build and deepen the political understanding required for enhanced environmental cooperation and to generate the impetus for action. Its mandate, as originally conceived in General Assembly resolution 2997 (XXVII) of 15 December 1972, remains valid.

33. Universal participation in the biennial sessions of the Governing Council is desirable, particularly considering the universal nature of the environmental problem. Other bodies of the United Nations system, especially those of a specialized character such as the World Meteorological Organization (WMO) and, more recently, WTO and GEF, would appear to have linked universality to the question of periodicity in the interest of financial and time considerations. The more universal the membership the less frequent an assembly. After a period of analysis and debate, the General Assembly in 1987 decided that the Governing Council would meet biennially. The costs to Governments and the additional burden placed on the secretariat were mentioned as the main disadvantages outweighing the advantages of annual meetings. Special sessions of the Governing Council could continue to be held as and when needed.

34. Periodicity is also linked to the existence of a smaller, accountable executive body to provide regular political guidance and to exercise oversight of the organization between sessions. Other organizations such as the United Nations Development Programme (UNDP) and the United Nations Children's Fund (UNICEF) have established a smaller representative and democratic body that is not universal but which meets frequently.

35. In the specialized field of environment, the involvement of Ministers of Environment is essential. The Governing Council should continue to be held in advance of the yearly meeting of the Commission on Sustainable Development.

D. Intersessional body

36. To respond to the observations about UNEP's political effectiveness, to provide clearer and more coherent policy direction and more effective oversight, the designation of a smaller intersessional body is crucial. In order to avoid being marginalized, political momentum between sessions of the Governing Council must be maintained.

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37. Although the models vary, most, if not all, United Nations organizations, including those which have recently undertaken reform and restructuring measures, such as the United Nations Industrial Development Organization (UNIDO) and the United Nations Conference on Trade and Development (UNCTAD), or those newly created, such as WTO and GEF, have such bodies.
38. The governing bodies of UNICEF and UNDP/United Nations Population Fund (UNFPA) were recently transformed into Executive Boards of 36 member States, meeting in four shortened sessions per year. Their experience to date, as articulated in the report of the Secretary-General to the forty-ninth session of the General Assembly (A/49/558), indicates that the boards have become more action-oriented, concentrating on establishing new and more business-like working methods. Documentation has been significantly reduced in volume. Written statements are used less frequently and the deliberations are coming closer to a dialogue. Decision-making procedures have been streamlined. Nevertheless, observers have participated in all formal sessions and the consensus principle has been maintained.
39. Because these bodies are the key governing structure, rather than an intersessional body accountable to a larger, senior and more inclusive body, there remain some concerns from developing countries about the adequacy of their participation in an increased number of meetings in view of the small size of their missions and the financial considerations in providing representatives from capitals. The impact of the frequency of sessions on conference services, including translation of documentation at least six weeks prior to meetings, is being monitored.
40. At the time that UNEP's Governing Council met annually, an ad hoc intersessional working group was created to generate mid-term policy guidance and advice from capitals. Whether Governments considered it too costly to send representatives from capitals or whether it was because the consultations were of an advisory nature only, these consultations were discontinued.
41. None of the existing intersessional institutional arrangements had or has formal decision-making powers derived from the powers of the Governing Council itself. In the past, Governments would only accept a body with such powers if there were to arise an overriding need for decision-making in between sessions, and in cases where there was such a need, the construction of convening a special session of the Governing Council with its accepted geographically distributed membership was used.
42. A well-defined operational mandate is required for a body empowered to carry it out, but directly accountable to the Governing Council. The mandate should include two elements: provision of policy guidance within the framework of Governing Council decisions, and monitoring the performance of the organization, without the burden of micromanagement. The body would review the status of implementation of UNEP's work programme. It would also, at the request of the Executive Director or the President, discuss and provide guidance on necessary changes to the orientation or emphasis in the programme budget and/or the medium-term plan prior to submission to the General Assembly. It could, furthermore, act as the preparatory body for Governing Council sessions.

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43. The distinct intersessional body would be chaired by the President of the Governing Council and must function in a democratic and transparent way. The body could be given certain decision-making powers, provided the composition is high-level and fully representative of the Governing Council. It would, of course, be accountable for these decisions to the Governing Council. The decision-making powers of the body could not exceed the parameters set by Governing Council. They should also respect the prerogatives of the Executive Director.

44. The body should be of limited size (15-20 members) and membership should bring broad environmental competence. Ideally, it should meet every six months for a short duration, depending on the frequency of Governing Council meetings. Consideration could be given to allow for the body to meet more frequently at the request of the Executive Director when the need to discuss certain emerging issues arises. Proposed elements for terms of reference are attached as annex 4. Periodically, the body could meet in different regions and meet in association with regional Ministerial meetings or with sessions of the Commission on Sustainable Development.

45. Three options could meet these requirements:

(a) A body elected from the membership of the Governing Council, based on the current formula for geographical representation;

(b) The Bureau of the Governing Council, extended to include, for instance, the Chairs of regional groups and/or representatives from capitals;

(c) A transformation of the current Committee of Permanent Representatives so that its Bureau would be representative of Governing Council membership. It could then serve as the core of the body, supplemented by delegates from capitals and the Bureau of the Governing Council.

46. It is important to note that under either of these options the Committee of Permanent Representatives could continue in an advisory capacity to the intersessional body and, ultimately, to the Governing Council.

47. Consideration could be given to having members of the body function not as representatives of their national Governments, but rather as representatives of their respective regional groups. Of increasing importance to the work and activities of UNEP are meetings of Ministers of Environment organized regionally. In two regions, UNEP provides the secretariat to those meetings and the meetings have been used by the Ministers, inter alia, to preview the Governing Council agenda and articulate priorities for the implementation of UNEP's programme of work in the region. These initiatives are useful and should be encouraged in other regions. Through the Chairman, their constituency could be represented in two of the options proposed for an intersessional body.

48. The costs of a three-day meeting every six months, under either of the three options, could be partially accommodated by reducing the number of meetings of task forces and subcommittees of the Committee of Permanent Representatives, while maintaining the formal quarterly meeting of the Committee. For example, to date in 1996, 21 meetings other than the formal

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quarterly meetings have cost approximately US\$ 63,000. Six meeting days of the intersessional body in the same time period could range between US\$ 52,000, if serviced at the same level as the formal meetings of the Committee of Permanent Representatives, and US\$ 160,000, if in three languages with 100 pages of pre-sessional documentation, 10 pages in-session, 20 pages post-session, and assuming interpreters are locally hired. A reduction in the number of days of the Governing Council session from 10 to 8 could also be envisaged.

IV. CONCLUSION

49. UNEP must evolve into an organization that acts clearly and unambiguously as the world's environmental agency, providing principal environmental inputs into the sustainable development agenda and shaping global environmental consensus. This is a collective responsibility of all parties concerned. General Assembly resolution 45/264 of 13 May 1991, on the subject of restructuring and revitalization, concluded that restructuring is primarily an intergovernmental responsibility. A professionally excellent secretariat can and should assist and cooperate, but political will is an essential prerequisite for ensuring good governance.

V. SUGGESTED ACTION BY THE GOVERNING COUNCIL

50. The Governing Council may wish to:

- (1) Take note of the report of the Executive Director;
- (2) Note with appreciation the actions already taken to reform the working methods of the governing structures and adopt the remaining proposals contained in the report;
- (3) Reconfirm the centrality of the Governing Council, its mandate and periodicity, and adopt a draft decision concerning universality of membership of the Governing Council of UNEP to be submitted to the General Assembly at its next session;
- (4) Decide to designate an intersessional body, whose terms of reference are contained in Annex 4 to the present report.

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Annex 1

Decision 18/2. Review of the governing structures of the
United Nations Environment Programme

The Governing Council,

Recognizing that there is a need periodically to review and refine the governing structures of the United Nations Environment Programme if its functions and responsibilities, as set out in General Assembly resolution 2997 (XXVII) of 15 December 1972, are to be fulfilled in the most efficient, effective and transparent manner,

Desiring to take the necessary steps to improve its structures in order to ensure achievement of these goals,

Determined to strengthen the United Nations Environment Programme to enable it to fulfil its role as the central United Nations organ for the environment,

1. Decides to review at its nineteenth regular session the governing structures of the United Nations Environment Programme with a view to itself taking action or, where necessary, recommending the General Assembly to take action to modify and streamline those structures to produce in them greater efficiency, effectiveness and transparency;

2. Requests the Executive Director to propose options to this effect to the Governing Council at its nineteenth session, after consultation with Governments.

10th meeting
26 May 1995

Annex 2Actions taken to implement Governing Council decision 18/2

In response to this mandate the following actions were undertaken:

- (a) Two circular letters were sent to all Governments on 21 November and 13 December 1995, requesting their general views on the governance of UNEP and apprising them of the timetable for consultations to comply with Governing Council decision 18/2;
- (b) A discussion on the subject was held with the Bureau of the Governing Council on 23 January 1996;
- (c) Various consultations were undertaken with government representatives, permanent representatives in Nairobi, Environment Ministers and other government officials. The documentation for these consultations was made available to the Committee of Permanent Representatives and they were briefed on the outcome. In addition, all Governing Council members were invited to an informal consultation in New York on May 4 1996, on the margins of the meeting of the Commission on Sustainable Development;
- (d) The Committee of Permanent Representatives to UNEP established a Task Force on Governance, under the chairmanship of Norway. After consideration by the Committee of Permanent Representatives, a report was forwarded to the Executive Director on 30 August 1996;
- (e) At the same time, the Nairobi chapter of the Group of 77 and China convened a working group on UNEP governance, chaired by Bangladesh;
- (f) A historical review of the development of the UNEP governance structures was undertaken and made available;
- (g) A factual analysis of the governing structures of selected relevant organizations was undertaken. The analysis makes no judgements about the effectiveness or desirability of those systems, and has limited value without an understanding of the purpose and culture of each organization.

Annex 3

Mandates of existing UNEP governing structures

I. UNEP GOVERNING COUNCIL

1. Membership of the UNEP Governing Council, consisting of 58 States serving a four-year term, is determined through election by the General Assembly, with half of the members being elected every two years (resolution 42/185 of the United Nations General Assembly of 11 December 1987). The Governing Council was assigned various responsibilities by the General Assembly in its resolution 2997 (XXVII) of 15 December 1972, which decided that:

"the Governing Council shall have the following main functions and responsibilities:

"(a) To promote international cooperation in the field of the environment and to recommend, as appropriate, policies to this end;

"(b) To provide general policy guidance for the direction and coordination of environmental programmes within the United Nations system;

"(c) To receive and review the periodic reports of the Executive Director of the United Nations Environment Programme, referred to in section II, paragraph 2, below, on the implementation of environmental programmes within the United Nations system;

"(d) To keep under review the world environmental situation in order to ensure that emerging environmental problems of wide international significance receive appropriate and adequate consideration by Governments;

"(e) To promote the contribution of the relevant international scientific and other professional communities to the acquisition, assessment and exchange of environmental knowledge and information and, as appropriate, to the technical aspects of the formulation and implementation of environmental programmes within the United Nations system;

"(f) To maintain under continuing review the impact of national and international environmental policies and measures on developing countries, as well as the problem of additional costs that may be incurred by developing countries in the implementation of environmental programmes and projects, and to ensure that such programmes and projects shall be compatible with the development plans and priorities of those countries;

"(g) To review and approve annually the programme of utilization of resources of the Environment Fund referred to in Section III below."

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In addition, by the same resolution, the General Assembly decided:

"that the Governing Council shall report annually to the General Assembly through the Economic and Social Council, which will transmit to the Assembly such comments on the report as it may deem necessary, particularly with regard to questions of coordination and to the relationship of environmental policies and programmes within the United Nations system to overall economic and social policies and priorities."

2. Initially, the Governing Council met on an annual basis. In 1979, the Governing Council considered the issue of the frequency and duration of Governing Council sessions, but decided that it would continue its annual sessions until 1983 and that it would re-examine the issue in 1982 (Governing Council decision 7/1). In 1982, the Governing Council concluded that consideration would be given to convening sessions of the Governing Council every two years, but delayed making a final recommendation to the General Assembly until 1983 (Governing Council decision 10/1). At its eleventh session, in 1983, the Governing Council postponed the decision to meet biennially again until 1987, with no Governing Council session to be held in 1986, on an experimental basis (Governing Council decision 11/2). Finally, in 1987, the United Nations General Assembly decided, by its resolution 42/185 of 11 December 1987, "Biennial cycle of sessions of the Governing Council of the United Nations Environment Programme", that the UNEP Governing Council should meet on a biennial basis, beginning in 1989, and that there should be no regular session in 1988. It should be noted that there has in fact been only one year, 1986, when there was no session of the Governing Council, as special sessions of the Governing Council were held in 1988, 1990 and 1992, and a one-day session was held on GEF in 1994.

3. While the composition and substantive competence of the Governing Council are defined by General Assembly resolution 2997 (XXVII) of 15 December 1972, the process by which the Governing Council discharges its functions and responsibilities, namely, its internal rules of procedure, is determined by the decisions of the Council itself and the rules of procedure of the Governing Council, adopted by the Governing Council in its decision 19 (II) of 11 March 1974.

4. States non-members and intergovernmental organizations, as well as accredited non-governmental organizations, may attend sessions of the Governing Council as observers. Observers have no right to vote.

II. BUREAU OF THE GOVERNING COUNCIL

5. The rules of procedure (rules 18-23) of the Governing Council define the Bureau of the Governing Council. In particular, rule 18 states:

"1. At the commencement of the first meeting of its regular session, the Governing Council shall elect a President, three Vice-Presidents and a Rapporteur from among its members. These officers shall constitute the Bureau of the Governing Council. The Bureau shall assist the President in the general conduct of business of the Governing Council. The Chairmen of such sessional committees or

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working parties as may be established under rule 60 below shall be invited to participate in meetings of the Bureau.

"2. In electing its officers, the Governing Council shall have due regard to the principle of equitable geographical representation.

"3. The offices of President and Rapporteur of the Governing Council shall normally be subject to rotation among the five groups of States referred to in section I, paragraph 1, of General Assembly resolution 2997 (XXVII)."

Rule 19 states:

"The President, the Vice-Presidents and the Rapporteur shall hold office until their successors are elected. Subject to the provisions of rule 18, they shall be eligible for re-election. None of them may hold office after the expiration of the term of office of the member of which he is a representative."

6. During the intersessional period, the Executive Director may consult with the Bureau on Governing Council-related issues.

III. THE COMMITTEE OF PERMANENT REPRESENTATIVES

7. Rule 62 of the rules of procedure of the Governing Council states that the Governing Council may establish such subsidiary organs on a permanent or ad hoc basis as may be necessary for the effective discharge of its functions and, as required, expert groups to consider specific problems and make recommendations. The rules of procedure of such subsidiary organs are those of the Governing Council, subject to such modifications as the Governing Council may decide upon in the light of proposals by the subsidiary organs themselves. Each subsidiary organ may also adopt its own priorities within the framework of the work programme established by the Governing Council. In consultation with the Executive Director, such subsidiary organs may meet as necessary.

8. In 1975, a system of informal consultations between Governments and the Executive Director was established "to exchange views on issues of policy and to consider items which would not normally be considered in depth at sessions of the Governing Council, for example, any difficulties facing the Executive Director in the implementation of Governing Council decisions and any proposals of the Executive Director for new programme activities" (Governing Council decision 23 (III) of 2 May 1975). The consultations were to be held twice annually. In 1977 the Executive Director was again directed to hold informal discussions with Governments to review selected documents, comment on pilot presentations of documents, to seek advice on the information Governments need, to exchange views on policy, and to consider any other items on which the Executive Director should wish to report (Governing Council decision 104 (V) of 27 May 1977). The Executive Director was also requested to conduct consultations with Governments of member States of the Governing Council on the advisability and feasibility of the Governing Council approving projects of UNEP, and to develop further the means of maintaining regular communication on programme and related developments

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between the secretariat and Governments, in particular through effective liaison with national representatives accredited to the Programme (Governing Council decision 82 (V) of 25 May 1977).

9. In 1983, the Governing Council decided to discontinue the intersessional informal consultations with Governments, and to invite permanent representatives to the Programme at Nairobi and/or Government-designated officials to meet the Executive Director at least three times a year. This group was to consider administrative, budgetary and programme matters, and to review progress in the implementation of the programme and Governing Council decisions, as well as specific issues proposed by the permanent representatives or the Executive Director. The Governing Council also recommended that a core group of 18 members should meet more frequently to discuss specific items of importance to the Governing Council, including facilitating the preparations for Governing Council sessions, monitoring, and advising on the implementation of Governing Council decisions, and putting into effect the work programme established for the group by the Governing Council (Governing Council decision 11/2, paragraph 3, of 23 May 1983).

10. By decision 13/2 of 13 May 1985, the Governing Council, recalling its decision 11/2 of 23 May 1983, and in accordance with rule 62 of its rules of procedure, established an open-ended Committee of Permanent Representatives, consisting of permanent representatives to the Programme and/or government-designated officials, to consider and make recommendations to the Council on the matters mentioned in decision 11/2, paragraph 3, and to take action on any other matters specifically entrusted to it by the Council. The Governing Council further decided that this Committee would meet regularly with the Executive Director or his representative on the first Wednesday of February, September and December of each year and six weeks prior to the opening of the fourteenth session of the Governing Council, as well as whenever deemed necessary by the Committee or by the Executive Director.

11. The Committee of Permanent Representatives is therefore a subsidiary body of the UNEP Governing Council, subject to the rules of procedure of the Council (subject to modifications as noted above) and established to consider and make recommendations and take action on matters specifically entrusted to it by the Council.

12. Over the years since the establishment of the Committee of Permanent Representatives, the Executive Director has been requested to consult with it on various issues including: the implementation of the supplementary programme as and when additional resources became available (Governing Council decisions 15/1 and 16/44); views on conclusions presented in a consultancy report on the organization and management of UNEP (Governing Council decision 16/6); proposals for enhancing the effectiveness and efficiency of UNEP in fulfilling its mandate (decision III/2 of the 1992 special session of the Governing Council); and assessing the implementation of Governing Council decisions, especially the execution of programme activities and their budgetary implications (Governing Council decision 17/43). The Executive Director has also been requested to keep the Committee of Permanent Representatives informed of various matters including: the allocation and utilization of funds for information activities (Governing Council decision 13/22); the status of the Environment Fund (Governing Council decision 16/44); programme implementation and planning, including

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expenditure and income profiles and planning assumptions at the programme activity level (Governing Council decisions 16/44 and 17/32); the full text of memoranda of understanding between UNEP and other United Nations agencies (Governing Council decision 17/8); and participation of UNEP in GEF (Governing Council decision 17/40).

13. In 1993, the development of the role of the Committee of Permanent Representatives was again addressed by the Governing Council (Governing Council decision 17/43). In that decision, the Council, noting the report of the Committee of Permanent Representatives on proposals for enhancing the effectiveness and efficiency of UNEP in fulfilling its mandate, contained in annex IV of document UNEP/GC.17/32 and, in particular paragraphs 8-9 thereof, concerning the need to clarify and develop some aspects of the role of the Committee of Permanent Representatives, decided that the Committee of Permanent Representatives should meet regularly and assess, in cooperation with the Executive Director, the implementation of Governing Council decisions, especially the execution of programme activities and their budgetary implications. The Governing Council also requested the Executive Director to provide the Committee, sufficiently in advance of its meetings, with whatever information the Committee required on the matters it decided to put on its agenda. The Committee of Permanent Representatives was to make recommendations on those matters and present them to the Executive Director for consideration and further reporting to the Committee.

14. In short, the Committee of Permanent Representatives has the mandate to consider all matters relevant to UNEP, including its programme and the implementing and financing thereof. It can do so on its own initiative and at the request of the Executive Director. The Executive Director is authorized by the Governing Council to provide the Committee of Permanent Representatives with relevant information. The Committee of Permanent Representatives can make recommendations to the Executive Director and to the Governing Council itself, but its role is purely advisory: it cannot take binding decisions on behalf of the Governing Council.

Annex 4

Elements for terms of reference of
the intersessional advisory body

1. (The intersessional advisory body (hereinafter referred to as the "Executive Board") shall have (19) (another number reflecting the regional distribution of seats of the Governing Council) members, elected by the Governing Council from its Members at the highest, preferably ministerial level). (The intersessional advisory body (hereinafter referred to as the "Executive Board") shall comprise the members of the Bureau of the UNEP Governing Council, the members of the Bureau of the Committee of Permanent Representatives, and five representatives from capitals, preferably at the ministerial level, designated by the regional groups.)
 2. The Executive Board shall have due regard to the principle of equitable geographical representation.
 3. The term of each member of the Executive Board shall be for two years, that term commencing at the end of each session of the Governing Council and terminating at the start of the following session of the Governing Council.
 4. Members of the Executive Board are eligible for re-election.
 5. No member of the Executive Board may hold office after the expiration of the term of office of the Governing Council member for which he or she is a representative.
 6. The rules of procedure of the Executive Board shall be those of the Governing Council, as appropriate, subject to such modifications as the Governing Council may decide upon in the light of proposals by the Executive Board itself.
 7. The Executive Board shall meet between sessions of the UNEP Governing Council, the first meeting to be convened six months after the conclusion of each session of the Governing Council, the second meeting to be held six months thereafter, the third meeting to be convened six months prior to the following session of the Governing Council and a final meeting to be held prior to and in preparation for the Governing Council. (Alternatively, the Executive Board shall meet once during the intersessional period, one year after each session of the Governing Council.)
 8. At the commencement of the first meeting after each session of the Governing Council, the Executive Board shall elect a President (alternatively, this may be the President of the Bureau of the Governing Council), three Vice-Presidents and a Rapporteur.
 9. The Executive Board shall review (and may take decisions related to) (and provide advice on) the status of implementation of the programme of work of UNEP and other decisions of the Governing Council, within the limits set by the Governing Council.
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10. The Executive Board shall also provide high level guidance to the Executive Director, on request, on necessary changes to the orientation or emphasis in the programme budget and/or medium-term plan prior to their submission to the General Assembly.
11. The Executive Board may also convene at the request of the Executive Director or the President to discuss, inter alia, emerging issues and other priority matters.
12. The Executive Board shall be accountable to the Governing Council for any decisions taken, with due respect for the prerogatives of the Executive Director.
